

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
Honolulu, Hawaii

REF:OCCL:DH

CDUA: HA-3405

Acceptance Date: February 2, 2007
180-Day Exp. Date: April 27, 2008

April 11, 2008

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Recommendation to DENY Conservation District Use Application (CDUA) HA-3405 to Develop a Sustainable Commercial Koa Timber Forestry Operation in South Hilo, Hawaii

APPLICANT: Kyle Dong, 2051 Young Street, Suite 200, Honolulu, Hawaii 96826

LANDOWNER: Hawaii Forest Preservation, 2051 Young Street, Suite 200, Honolulu, Hawaii 96826

LOCATION: Papaikou and Paukaa Districts, Island of Hawaii

TMKs: (3) 2-7-001:001
(3) 2-8-001:002

AREA OF PARCELS: 11,427 Acres

USE: 11,427 Acres

SUBZONE: Resource Subzone

BACKGROUND:

Staff notes three Conservation District Use Applications' (CDUA) have been submitted and withdrawn; CDUA HA-3026; CDUA HA-3062, and CDUA HA-3066.

On February 2, 2007, the Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) accepted CDUA HA-3045 for a commercial koa forestry operation permit; the 180-day processing period deadline was August 1, 2007.

On May 15, 2007, the OCCL sent to the applicant all the public and agency comment letters regarding major issues and concerns raised during the review period for the Draft Environmental Impact Statement (DEIS) raised during the Draft Environmental Impact Statement (DEIS) review period. The OCCL asked the applicant to address the issues raised during the EIS review process, and resubmit an updated management plan (**Exhibit 1**).

On June 26, 2007, the applicant asked for a first time extension of 90-days. On July 13, 2007, the Board of Land and Natural Resources (BLNR) approved an extension to the processing period of 90-days to the CDUA processing period until October 30, 2007.

On September 25, 2007, the applicant asked for a second time extension of 90 days to the CDUA processing period. On October 12, 2007, the BLNR approved an extension to the processing period until January 28, 2008.

On December 16, 2007, the applicant asked for a third time extension of 90-days to the CDUA processing period. On January 11, 2008, the BLNR approved an extension to the processing period until April 27, 2008.

On January 14, 2008, the OCCL requested from the applicant a progress report on the CDUA, Management Plan, and FEIS by February 27, 2008. Pending the status of the items staff would make a decision whether to recommend to the BLNR a fourth time extension to the BLNR or to recommend that CDUA HA-3405 be denied.

On March 11, 2008, the OCCL sent a letter to the applicant that noted if the requested status report on the progress of the CDUA, Management Plan, and FEIS were not received, a staff report would be prepared to deny CDUA HA-3405 for failure to complete the EIS process in a reasonably timely manner (**Exhibit 2**).

TIME EXTENSION REQUEST:

Staff suggested that a 90-day time extension request be submitted, pursuant to Section 183C-6(b), HRS, which states that "When an environmental impact statement is required pursuant to Chapter 343 ... the one-hundred eighty-days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board." A time extension request was not submitted.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for granting time extensions to the CDUA processing period is provided in Section 183C-6(b), HRS, which states that "When an environmental impact statement is required pursuant to Chapter 343 ... the one-hundred eighty-days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board." A time extension request was not submitted.

DISCUSSION:

The applicant notes the purpose and need for the action is to implement a sustainable forestry management plan with four primary objectives: 1) sustain and enhance native avian, mammalian, and botanical populations; 2) undertake a long-term maintenance program to control invasion of non-native plant species; 3) harvest koa in sustainable increments; and 4) implement a reforestation program to establish a sustainable koa inventory.

However, staff believes the applicant's submitted CDUA, DEIS, and Management Plan do not provide enough information to show that a sustainable forestry management project can be implemented that meets the four objectives.

The OCCL notes for a project of this magnitude which will affect 11,427 acres of flora and fauna the document should adequately discuss direct, indirect, and cumulative effects, significant environmental impacts, possible negative and/or positive impacts, proposed mitigation measures.

The applicant was notified that depending on the status of the CDUA, Management Plan, and FEIS, staff would decide whether to recommend to the BLNR a fourth time extension or to recommend denial of CDUA HA-3405 for failure to complete the EIS process in a reasonably timely manner.

The applicant has not responded to the January 14, and March 11, 2008 letters; nor sent in a status report regarding the CDUA, Management Plan, and FEIS.

Staff, therefore, recommends as follows:

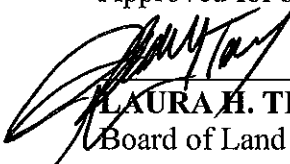
RECOMMENDATION:

That the Board of Land and Natural Resources DENY CDUA HA-3405 for failure to complete the EIS process in a reasonably timely manner.

Respectfully submitted,

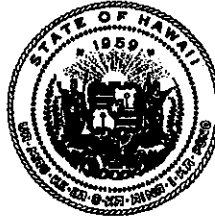
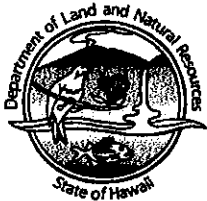

Dawn T. Hegger
Senior Staff Planner

Approved for submittal:


LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

Attachment

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

ALLAN A. SMITH
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

PETER T. YOUNG
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

CDUA: HA-3405

Acceptance Date: February 2, 2007
180-Day Exp. Date: August 1, 2007

Kyle Dong,
2051 Young Street, Suite 200
Honolulu, Hawaii 96826

MAY 15 2007

Dear Mr. Dong,

SUBJECT: CDUA HA-3405

Proposed Commercial Forestry Project, Subject Parcel's TMK's: (3) 2-7-001:001
and (3) 2-8-001:002, Papaikou and Paukaa Districts, Island of Hawaii

This letter is regarding the processing of CDUA HA-3405 for the proposed commercial forestry project, located on subject parcel's TMK's: (3) 2-7-001:001 and (3) 2-8-001:002, Papaikou and Paukaa Districts, Island of Hawaii.

The public and agency comment period on your application closed on April 23, 2007. The Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) apologizes for the lateness of the letter. The OCCL is providing you with the following comment letters. The OCCL notes there are major issues and/or concerns raised during the review period for Draft Environmental Impact Statement (DEIS)¹.

Attached to this letter are copies of the comments received by the OCCL regarding your DEIS. You will need to answer each letter point by point, and give detailed explanations for all issues and/or comments addressed in the comment letters. This allows readers, government agencies, and/or the community know that you have addressed: 1) their concerns; 2) potential negative and/or positive impacts; and 3) mitigation measures. Please send copies of your responses to the questions raised in the letters for CDUA HA-3405 directly to the authoring agency, community, or organization, to the OCCL, and include them in the Final EIS (FEIS). Please underline these changes in the body of the FEIS document.

Environmental Impact Statement

The EIS was required so that the direct, indirect, and cumulative effects of the proposed action could be evaluated, and because there would be significant environmental impacts. The EIS is a disclosure statement that provides mitigation measures to prevent or reduce the project's negative effects and must present alternative methods, modes or designs of the proposed action. The EIS should identify environmental concerns, obtain various relevant data, conduct necessary

¹ See Exhibit A.

studies, receive public input, evaluate alternatives, and propose measures for minimizing adverse impacts. The body of the EIS should be structured to disclose information so that the general public may understand it. The EIS is a disclosure statement that provides mitigation measures to prevent or reduce the project's negative effects and must present alternative methods, modes or designs of the proposed action.

The DEIS seems to raise more questions that it answers regarding the proposed project. The body of the DEIS document does not provide a full disclosure of the proposed project, but instead presents piecemeal data and information, which is often disorganized, incomplete and conflicting. Maps, figures, tables, and/or exhibits do not have an explanation of the data presented and what it represents.² The meat and potatoes of the proposed project can be found in piecemeal in each appendix but not in the main body of the DEIS itself. Critical elements regarding the proposed project appear to be lacking in the body of the EIS, thus county, state, and federal agencies, the community, and organizations have to make an educated guess about what constitutes the proposed project. Examples regarding the above concerns and/or questions from Chapter 2, Chapter 3 and Chapter 4 are below:

Chapter 2 – Alternatives Including the Proposed Action

- What is the proposed action?
- Is the proposed action the 2.2 Single MU Alternative?
- Is the Delayed harvest Alternative the same as the Delayed Management Alternative?
- Why isn't the Multiple MU Alternative and Single MU Alternative discussed?

Chapter 3- Existing Environment, Anticipated Impacts, and Proposed Mitigation

- Why does page 3-19 skip to page 4-20 in Chapter 3?
- Why does section 3.2.2.1 Terrestrial Invertebrates skip to Section 4.1.1.1 Terrestrial Invertebrates then back to Section 3.1.1.1.1 Arthropoda?
- Section 4.1.1.2 Aquatic Organisms appears to be incomplete;
- Section 4.2 Socioeconomics is missing its discussion section.

Chapter 4 – Relationship of the Proposed Action to Land Use Plans, Policies, and Controls for the Affected Area

- Where are the relevant discussions for each section regarding the how the proposed project action meets or does not meet the provisions of the plans, policies and/or controls?
- The subject matter for Page 4-20 in Chapter 4 is different than page 4-20 in Chapter 3, yet there are two page 4-20's?
- Why does Section 4.5 County of Hawaii Plans and Controls note, "this section cannot be completed until inconsistencies between the forest management plan (FMP) and the current botanical and avifaunal/mammalian field surveys are resolved."

The EIS should meet the above standard. It should reflect a discussion of the data contained in the appendix so information does not have to be searched for. The department expects a thorough discussion, sufficient research, baseline flora and fauna surveys, and complete data to be presented. The FEIS should answer all concerns and/or issues from the comment letters, edited for typos, missing sentences, paragraphs, and answer critical questions.

² Figure 7 refers to vegetation zones but what do the numbers (122,142,146,139,175,172) represent?

Appendix P and Appendix Q

The OCCL notes it is unclear why Appendix P and Appendix Q have the same agency comment letters from the 2003 DEIS, but have two different responses from ACI (Appendix P) and OSG (Appendix Q). Comments from ACI and OSG responded to different issues/concerns, so the OCCL wonders whether the issues/concerns were actually addressed. For example, KAHEA wrote a comment letter dated February 22, 2003; ACI responded with a 1-page letter (dated May 30, 2003), and OSG responded (no date) with a 3-page letter. This applies to other comment letters, among them the County of Hawaii Planning Department; Earth Justice; and Division of Forestry and Wildlife. Secondly most of your answers provide no discussion. The response to the Land Use Commission's letter noted, "see environmental impact statement appendix G and we will have an environmental committee." The OCCL asks who will make up the environmental committee? What will be its purpose? What qualifications are required? How many individuals will serve on the committee?

You will need to re-address all letters in Appendix P³ (Letters of Concern and Questions from the Public Regarding Draft EIS of 2003) point by point, and give detailed explanations for all issues and/or comments addressed in the comment letters. This allows readers, government agencies, and/or the community know that you have addressed: 1) their concerns; 2) potential negative and/or positive impacts; and 3) addressed possible mitigation measures and/or best management practices. *Please italicized these changes in the FEIS document and send a copy to the authoring agency, community, or organization for the comments received during 2003 DEIS.*

Appendix C and Appendix L

Appendix C and Appendix L appear to contain the same report. Retain the one that has the most information.

Appendix K

Appendix K for the Hawaii Hardwood Market Study is illegible.

Color Pictures

Pictures found in the Koa Forest Inventory – Hawaii Jaakko Poyry July 2001 report; Appendix B – Forest Management Plan; Appendix F – Aquatic Organism Study; Appendix G – Archeological Inventory Survey; Appendix M – Botanical Surveys, Palmer & Associates Consulting, Rexford Palmer and David Paul, October 2005 need to be in color and legible. **The CDUA, FEIS, and Management Plan also need to contain color pictures, where relevant.**

CDUA and Management Plan Late Letters

The OCCL notes because you did not send out the Management Plan and CDUA documents when the DEIS was sent to individuals, agencies, and relevant community groups (approximately the first week in February 2007), and had to resend the two documents out for review (April 9, 2007) we are still receiving comments. Therefore, you will need address any comments that we receive in the near future.

³ See Exhibit B.

Management Plan Section 13-5-39, HAR

The OCCL noted CDUA HA-3405 is for commercial forestry; an approved management plan is required, pursuant to Section 13-5-24, HAR. The OCCL notes the submitted plan did not meet Management Plan requirements, pursuant to Section 13-5-39(a), Management Plan Approvals.⁴ **Please resubmit the Management Plan to the OCCL by June 8, 2007.**

The OCCL notes the Management Plan submitted is too general, and does not contain specific details regarding: methods of tree harvesting, monitoring of flora and fauna, helicopter harvesting, responsibility for weed control and monitoring of regeneration efforts, all aspects biological monitoring, labor pool, aquatic biota monitoring plan, worker identification for rare and endangered flora and fauna species, post harvest monitoring, pre management flora and fauna surveys, tree selection, harvest operations, proposal to reduce strawberry guava seed sources and palm grass, canopy disturbance reforestation efforts, chemicals, transportation routes for trucks and helicopters, hours of operation, required permits, proposed timeline, etc. for a project of this magnitude that will affect thousands of acres.

Time Extension

The OCCL notes CDUA HA-3405 180-day processing deadline is August 1, 2007. It is suggested that you ask for a 90-day time extension, as there would not be not enough time in the CDUA process once the FEIS has been submitted in order to schedule a public hearing in Hilo. You may ask for a 90-day time extension, pursuant to Section 183C-6(b), HRS, which states that "When an environmental impact statement is required pursuant to Chapter 343 ... the one-hundred eighty-days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board."

The OCCL notes if you do not ask for a time extension by **June 29, 2007**, staff will be required to submit a staff report for July 13, 2007 asking the Board of Land and Natural Resources (BLNR) to deny CDUA HA-3405 without prejudice, until all issues and concerns raised have been answered in the CDUA, FEIS, and Management Plan.

Conclusion

The OCCL notes the FEIS should discuss direct, indirect, and cumulative effects, significant environmental impacts, possible negative and/or positive impacts, proposed mitigation measures, contain adequate survey data, contain complete and readable consultant reports, color photos evaluate alternatives, and propose measures for minimizing adverse impacts. The EIS should be structured to disclose information so that the general public may understand it easily.

The applicant notes that the purpose and need for the action is to implement a sustainable forestry management plan with four primary objectives:

- Sustain and enhance native avian, mammalian, and botanical populations;
- Undertake a long-term maintenance program to control invasion of non-native plant species;
- Harvest koa in sustainable increments; and
- Implement a reforestation program to establish a sustainable koa inventory.

⁴ Section 13-5-39 (a), Management Plan Approvals, "where required, management plans shall be submitted with the Board Permit application and shall include the requirements listed in Exhibit 3, entitled "Management Plan Requirements, dated September 6, 1004."

avian, mammalian, and botanical populations; undertake a long-term maintenance program to control invasion of non-native plant species; harvest koa in sustainable increments; and implement a reforestation program to establish a sustainable koa inventory.

There is a concern whether the applicant will be able to implement the proposed Forest Management Plan due to the availability of funds. Section 2.7 Summary of Alternatives and Potential Consequences notes that the Delayed Harvest alternative would delay the 1st round of harvesting until the HCP is completed, resulting in funding problems and restrict the landowner's ability to manage properly manage the forest, as the DEIS notes that, "it appears that funds won't be available unless harvesting occurs, and the proposed post harvest maintenance, pre-management flora and fauna surveys, tree selection, post harvest, maintenance and biological monitoring will not occur." Please clarify whether this would be the situation.

It appears that the applicant would like to have an approved CDUA for koa harvesting first, then conduct the studies that will assess possible rare, threatened, and/or endangered flora and fauna species, as the project implemented. Staff does not believe that a CDUA could be issued without first evaluating all necessary studies.

The OCCL notes the applicant may want size down the scope of the proposed project to a manageable area, as the DOFAW suggests, to allow a demonstration of the tasks described in the CDUA, FEIS, and Management Plan to allow the State to evaluate project performance.

The OCCL recommends that you consult with the Department of Health (DOH), Office of Environmental Quality Control (OEQC) at 235 South Beretania Street, Suite 702, Honolulu, Hawaii 96813, Phone (808) 586-4185, Fax (808) 586-4186, for help in drafting an adequate FEIS document that meets Chapter 343, HRS. Or the OCCL notes you may wish to consult with a professional planner regarding the proposed project to help you prior to resubmitting the CDUA, FEIS, and Management Plan to the OCCL.

Your cooperation and early response to this matter will be appreciated, and will help facilitate the processing of your application. Should you have any questions, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Aloha,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson
OEQC - Jeyan
County of Hawaii Planning Department
HDLO/DAR/DOCARE/CWRM
DOFAW - Hilo Branch and M. Constantinides
Mark Hee, 2264 Kapahu Street, Honolulu, Hawaii 96813
David DeLuz, 811 Kanoelehue Avenue, Hilo, Hawaii 96720

This exhibit is only to show the sample of concerns and/or concerns that were brought up during the Chapter 343 comment period for CDUA HA-3405. It does not reflect all comments made in the letters received and therefore all comments from all county, state and federal agencies, community and organizations should be answered.

Insufficient, and Missing Information

- Page numbers are missing in the Table of Contents;
- the magnitude of the project to harvest 11,427 acres of koa demands a comprehensive description of the project as harvesting, reforestation and processing details are absent;
- maps and exhibits are not legible;
- what are the requirements for all required county, state, and federal permits;
- the reforestation program is not adequate;
- incorrect or missing data regarding land use designations (State Land Use Designation, County Zoning District, General Plan, Special Management Area);
- the executive summary is lacking information (beneficial and adverse impacts, mitigation measures, alternatives, unresolved issues, compatibility with land use plans);
- discussion missing for adverse environmental effect that cannot be avoided;
- reports are missing for the agriculturally controlled lands and the enforcement action (regarding alien pest control, management feral ungulates, rats, cats, erosion and/or siltation);
- discussion missing regarding the irreversible and irretrievable commitment of resources;
- discussion missing regarding socioeconomic impacts (number of jobs created, kind of jobs created, job qualifications, economic impacts);
- management plan does not identify the correct Tax Map Keys;
- clarification needed for specific months when logging will occur, specific timetable;
- missing Table 2-1; this table describes a summary of the alternatives and predicted environmental effects;
- insufficient information for survey of the referenced literature and insufficient and limited information for sample plot data sets for project of this magnitude;
- what environment and ecosystem do koa trees support (birds, insects, habitat, nesting areas);
- full biological report should be done for project area;
- the DEIS page numbering is out of sequence -
 - 3.2.1 starts page 3-17 goes to page 3-19 then 3.2.2 follows on page 4-20;
 - page 4-23 and 4-24 have typos or things are out of sequence.
 - Page 4-26 and 4-27 are followed by page 4-1;
 - there is a 4.2 paragraph on page 4-26 and also on page 4-1 with different subject matter.
- Section K is illegible and the Hardwood Review is missing;
- why is TMK: (3) 2-9-005:002 discussed in the DEIS;
- pages are duplicates – is all the information submitted?
- what is the current and correct inventory of koa trees on the project area

- Page 4-31 Section 4.5 County of Hawaii Plans and Controls - Please address and/or correct why this section says "this section cannot be completed until inconsistencies between the forest management plan (FMP) and the current botanical and avifaunal/mammalian field surveys are resolved."
- Appendix P is redundant as Appendix Q has both comment letters with the agency, community comment letters;
- List all county, state, and federal permits that may be required;
- Missing information regarding other dlwr divisions who may have control over the proposed area; CWRM, DAR, Engineering;
- An adequate discussion is required regarding how flora and fauna ecosystem and how the proposed project will affect the ecosystem;

Information Regarding Possible Impacts and Mitigation Measures

- possible impacts and mitigation measure to the environment are not discussed;
- impacts and mitigation measure to the surrounding communities are not discussed;
- impacts and mitigation measures regarding the koa timber production process is insufficient;
- impacts and mitigation measures relating to the watershed area where koa harvesting will occur missing;
- impacts and mitigation regarding quality of life impacts with helicopter logging activities from the baseyard of operations to the proposed project area;
- impacts and mitigation regarding increase of traffic issues;

Information Regarding Rare and/or Endangered Species

- insufficient studies and/or references made regarding rare and/or endangered native plants, animal, aquatic biota, etc., and positive and/or negative impacts and mitigation measures not discussed;
- incorrect and/or missing information, and discussion regarding fauna listed under the US Endangered Species Act, or that are considered rare;
- there is a concern that the study area is inaccessible that it is difficult to determine the presence of absence of threatened or endangered species;
- There is a possibility that there are rare and/or endangered native plants, animal, aquatic biota not been previously discovered will be destroyed in the process;
- how will harvesting crews identify rare, threatened and endangered species at the site?
- errors of spelling and identification of common and endangered species indicate a less than rigorous understanding of the resources at risk;
- How will nesting, breeding, and feeding patterns be affected by the harvesting and forest management plan;
- harvesting operations should not occur unless there are complete flora and fauna surveys;
- A review of literature, and two sample limited plot data sets, and partially conducted;
- botanical surveys do not constitute adequate information for the proposed project;

DOFAW Concerns

- the DEIS did not discuss the DOFAW's concerns regarding: timber cruise, stand and stocking tables, koa regeneration and weed control monitoring, general harvesting schedule, clear discussion of harvest versus leave tree selection will be conducted, clear and credible budget analyses, etc.;
- If the forest management plan does not provide adequate safeguards to prevent significant environmental damage to the subject native forest what if the stated activities fall short of stated goals;
- The proposed koa regeneration stimulation use of hand raking of surface soils is very difficult, labor intensive, and cost-prohibitive;
- Timber survey methodologies that meet professional forestry standards are required before the division can adequately evaluate stand volume, harvesting levels, stocking requirements in a sustainable and economic viability of the forestry operation;
- explain why the minimum harvest koa tree diameter went from 18" in previous plans to 14" with the current plan and how this will improve the sustainability of the harvest;
- explain why the DEIS does not support the conclusion that 7.56 trees per acre could be removed on a ten year cutting cycle;
- the proposed project business plan projects a budget that seems highly simplified and missing critical details of operation, labor, and/or seems to underestimate these associated costs;
- a more detailed forest management plan budget is required;
- the botanical survey was conducted in portions of only 3 of 7 management units, a full survey should be conducted;

Water Quality Monitoring and Erosion Issues

- information regarding the proposed water quality monitoring (location of monitoring sites, frequency of monitoring, streams to be monitored);
- what erosion problems will be created by the harvest operations?

Threat to Aquatic Biota

- threat to aquatic biota is increase in sediment input in and below the project area (streams, and marine resources), and proposed impacts and mitigation measures regarding erosion, siltation, and pollution of the aquatic environment;
- an aquatic biota monitoring plan be implemented with the Forest Management Plan;
- there is a high % of native aquatic species indicating a pristine aquatic ecosystem – what are the potential impacts and mitigation measures;
- because the subject area comprises approximately 25% of the Mauna Kea aquifer there's an increase risk of weed infestation and sedimentation to aquatic biota and watershed functionality;
- Page 4-25 notes one native aquatic species that was presumed extinct (*sigmatineurum omega*) was rediscovered in the Kawainui Stream; and two species of undescribed aquatic flies were discovered that were new to science.

What laws are applicable for these two unique situations regarding protection, monitoring, and management;

Buffer Zones

- stream buffers should be measures from the top of the gulch versus from the edge of the stream;
- insufficient information regarding buffers around rare plant populations;

Flooding and Wetland

- the USFW depicts a swath of wetlands (palustrine, scrub-shrub, broad leaf evergreen, saturated) over the western half of the site- how does the proposed project affect the wetland status;
- concern of flooding to lower flood plain areas due to project area receiving 200 inches of rain a year;
- concern the project area is a wetland rainforest and that the environment and the public health and safety would be affected by the project;
- soil disturbance and non-point pollution plans should be developed and added to the DEIS in conjunction with the Natural Resources and Conservation Service/Hilo Soil and Water Conservation District;
- What will be the affect to the wetland with koa harvesting, and if rainfall patterns stay the same;

Strawberry Guava

- how controlling strawberry guava around harvested trees will significantly enhance native plant survival in the overall forest;
- state specific chemical to control strawberry guava versus stating the brand name;
- claims but no hard data regarding strawberry guava inundation on the property (last information is 40 years old);

Surveys, Consultant Reports

- is there a more recent survey than the Hawaii Forest Bird Survey?
- discussion due whether an incidental take permit is required from the US Fish and Wildlife Service due to the potential of incidental take of one or more federally protected species;
- recommendations by consultants are not identified in the DEIS;
- the DEIS do not seem to mention Appendix J plans for a 0.5 mile buffer from the Hakalau National Wildlife Forest and proposed 200 foot buffers from all streams;

Unexplained Changes in Koa Timber Proposal

- explain the difference in proposals regarding a project that went from harvesting dead or dieback trees, less than 20% live crown, with 100 year rotation, and third party certification from the Forest Steward Certification to harvesting most koa trees on the property, in a short period of time – ten years, and no third party certification;

Third Party Monitoring and Monitoring and Coordination

- certification of a third-party to monitor the proposed project;
- site inspections of third parties (DLNR, government agencies, UH, neighboring landowners, general public) should be allowed to monitor the proposed project; Who will monitor the project?
- Who comprises the “Hawaiian Hoary Bat Cooperative Group?” project representative;
- what coordination will occur with the US Fish and Wildlife?
- who are the flora, fauna, and forestry professionals who will conduct biological monitoring and tree selection activities;
- pig hunting to control feral ungulates – who will teach Big Island Pig Hunting Associates regarding prevention of invasive species;
- who determines which trees are removed? What are the qualifications?
- What data is evaluated to assess tree removal?
- how will the possible spread of non-native species by field personnel, workers, and/or equipment be handled, what are the mitigation measures?;
- With post-harvest maintenance and monitoring activities a trained botanist, wildlife biologist, or invasive biologist should be present and used to identify budget resource management requirements and associated costs regarding the applicants monitoring activities for each harvested area - it is recommended that a brief summary of findings and observations be written for the site visits.

Weed Control and Forest Restoration Objectives

- possibility that koa harvesting will produce less than the project income and the owner will reduce or abandon weed control and forest restoration objectives;

Performance Bond

- Is there a performance bond that will be posted to insure the Forest Management Plan is implemented?
- a performance bond should be posted for the proposed project;

Reports to the Public

- annual reporting for public review should be implemented;

DEIS Alternatives

- a more specific description for “Multiple MU Alternative” and “Delayed Management Alternative” is needed;
- describe three action alternatives in Chapter 3; there are only 2 alternative discussed;
- is there a difference between “Delayed Harvest Alternative” versus “Delayed Management Alternative;”

Hakalau Forest National Wildlife Refuge

- Hakalau Forest National Wildlife Refuge is a 32,733-acre refuge that was set-aside in 1985 and includes a number of threatened, endangered, and rare species.

Since the whole western site borders the refuge there is the potential for a takings to occur; what permits or mitigation measures are proposed ?

- A comprehensive description of the proposed project and how it will affect the Hakalau Forest National Wildlife Refuge is warranted as the proposed projects entire western boundary borders the refuge;

Lineal Heirs and Title Policy

- Raises questions regarding adequate review of title policy of possible landowners;
- how extensive was the search for lineal heirs of the land, and traditional, cultural and religious practitioners;

Current Religious Practices

- There is possible ongoing current religious practices and traditional and customary gathering of resources is still being conducted;
- taking the oldest, biggest, and valuable koa trees constitutes a violation of traditional and customary religious practices;
- Describe if an Incidental Take Permit is required and Habitat Conservation Plan is required Takings;

Forest Management Plan

- The Forest Management Plan is insufficient and does not provide information regarding sources, monitoring, costs, section of researchers, etc.;
- how to insure the rotation of a century beyond an average human lifetime;
- please explain why it is necessary to chop down the trees to save the forest?
- control methods for large areas of land are not environmentally responsible;
- Management strategies are missing (appropriate methods, associated costs, fencing, feral ungulate control, etc.);
- A thorough discussion of the harvesting plan that is consistent text wide that discuss the harvesting plan, detailed timetable, management periods, harvesting periods, survey and monitoring periods labor, supplies, helicopter use, etc. is needed;
- discussion is required regarding the amount trees harvested; instead of referencing x acres/year it may be beneficial to describe tree harvesting per MU;
- The budget for post harvest maintenance amount seems inadequate;
- The applicant has not demonstrated that cutting down koa trees will not cause substantial adverse impacts to the Conservation District;
- how much koa will be harvested? Explain the statement that more than 1.5 million board/feet year could be harvested;

Post-introduction Alien Species

- There is no discussion of possible project-introduced alien species (ways in which alien plants and invertebrates could be introduced to, or spread within, the project site by humans, vehicles, heavy equipment, vegetation clearing, openings in the forest canopy), and/or disease and insect monitoring and management; the DEIS needs to address these issues and give specific mitigation measures to address impacts;

Helicopter Harvesting

- possible ongoing noise issues for harvesting periods and for the next century;
- will the helicopter harvesting will invasive species spread;
- It is unlikely that endangered species and breeding will be detected by helicopter surveys prior to logging. Breeding and roosting bats, essential bird behaviors, and most plants and invertebrates are impossible to see from a helicopter;
- Forest landing zones will be 125 feet x 140 feet how will these spots be chosen – based on best availability to harvest koa? Presence of endangered species? Best landing area?
- The DEIS says there will be 30 days of use for the helicopter for koa harvesting. Will there be additional days for the biological monitoring crews and forest management operations?

Mauna Kea Aquifer

- The proposed site sites over 25 % of the Mauna Kea Aquifer Sector area – how will removal of koa trees affect the watershed and wetland function of the aquifer;

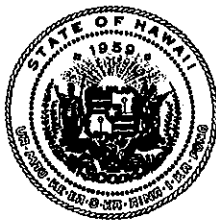
General Concerns and Comments

- Concern regarding appropriate clearance regarding oversize and overweight vehicles;
- Cutting down trees to save them from an invasive species does not make sense;
- community requests for a DEIS, CDUA, Management Plan and/or a CD of the project went unanswered;
- what is the likely hood that the applicant will implement the proposed mitigation measures if the logging operation proves economically unviable;
- the applicant can not adequately assess the extend and value of existing resources leaving issues whether the applicant can measure the extent of his take;
- what is the relationship between Mr. DeLuz and Mr. De Luz Senior, Mr. Dong, and Mr. Lee?
- reducing the proposed project size of the project area which would allow a demonstration of the effectiveness of the Forest Management Plan;
- questions raised in past comment letters are inadequate;
- although Geographical Information System (GIS) is referenced in Appendix A there is no discussion of using GIS in the Forest Management Plan and how it could or will be used, or helpful for monitoring;
- The report and information is requested in the reforestation plan required by DLNR from Koa Timber from the enforcement action that occurred in ENF HA-04-08 in 2004;
- What were the results of the Habitat Restoration Plan?
- financial resources indicated in the appended 2003 budget appear to be inadequate to address or mitigate problems associated with logging and invasive species recruitment;
- Please make sure the correct data is referenced or that the DEIS makes a detailed and adequate explanation of why specific trees (ohia, koa, ohelo, kawau, alani) are or are not found in some places and not other places in the DEIS;

Appendix P – Letters of Concern and Questions from the Public Regarding Draft EIS of 2003

- County of Hawaii
 - 2/20/2003 Department of Parks and Recreation
 - 1/30/2003 Fire Department
 - 2/21/2003 Planning Department
 - 1/15/2003 Police Department
- State of Hawaii
 - 1/17/2003 Department of Accounting and General Services
 - 1/27/2003 & 2/4/2003 Department of Health – Environmental Planning Office
 - 2/20/2003 Office of Environmental Quality Control
 - 1/22/2003 Land Use Commission
 - 2/26/2003 Department of Transportation
 - 1/28/2003 Office of Hawaiian Affairs
 - Department of Land and Natural Resources
 - 1/14/2002 & 2/19/2003 Division of Forestry and Wildlife
 - University of Hawaii
 - 2/21/2003 Environmental Center
 - 2/11/2003 College of Tropical Agriculture and Human Resources
- 2/21/2003 US Fish and Wildlife Service
- 1/16/2003 US Geological Survey
- 2/20/2003 Hawaii Forest Industry Association
- 1/27/2003 Marten Law Group
- 2/10/2003 Sierra Club
- 2/12/2003 David Caccia
- 1/27/2003 Patrick Conant
- 2/16/2003 John Flaherty
- 2/20/2003 Micah Miller
- 2/22/2003 KAHEA
- 5/30/2003 Marjorie Ziegler

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

CDUA: HA-3405

Acceptance Date: February 2, 2007
180-Day Exp. Date: April 27, 2008

JAN 14 2008

Kyle Dong,
2051 Young Street, Suite 200
Honolulu, Hawaii 96826

Dear Mr. Dong,

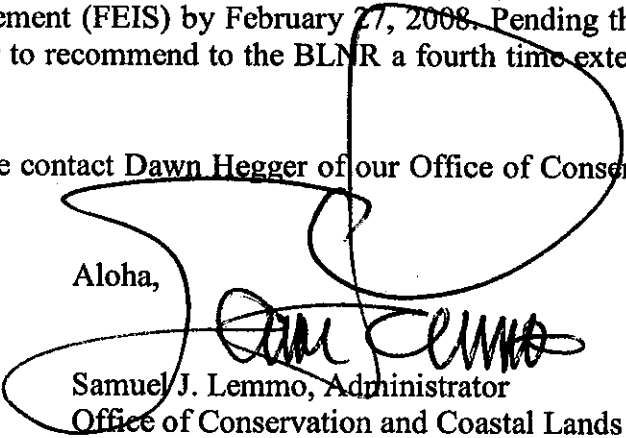
SUBJECT: 3rd Time Extension CDUA HA-3405 Proposed Commercial Forestry Project,
Subject Parcel's TMK's: (3) 2-7-001:001 and (3) 2-8-001:002, Papaikou and
Paukaa Districts, Island of Hawaii

The Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) notes on Friday, January 11, 2008, the Board of Land and Natural Resources (BLNR) approved a third time extension of the processing period to **April 27, 2008**, for CDUA HA-3405.

The OCCL requests that you submit an update to the progress of your CDUA, Management Plan, and Final Environmental Impact Statement (FEIS) by February 27, 2008. Pending the status of these issues, staff will decide whether to recommend to the BLNR a fourth time extension or to deny CDUA HA-3405.

Should you have any questions, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

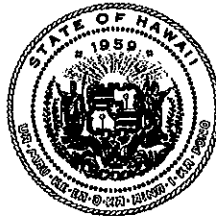
Aloha,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson/ DOFAW – Hilo Branch and M. Constantinides
County of Hawaii Planning Department
Mark Hee, 2264 Kapahu Street, Honolulu, Hawaii 96813/ David DeLuz, 811 Kanoelehue Avenue, Hilo,
Hawaii 96720

EXHIBIT 2

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

CDUA: HA-3405

Acceptance Date: February 2, 2007
180-Day Exp. Date: April 27, 2008

MAR 11 2008

Kyle Dong,
2051 Young Street, Suite 200
Honolulu, Hawaii 96826

Dear Mr. Dong,

SUBJECT: 3rd Time Extension CDUA HA-3405 Proposed Commercial Forestry Project,
Subject Parcel's TMK's: (3) 2-7-001:001 and (3) 2-8-001:002, Papaikou and
Paukaa Districts, Island of Hawaii

The Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) notes CDUA HA-3405 processing period will expire on **April 27, 2008**.

The OCCL notes you were to submit an update to the progress of your CDUA, Management Plan, and Final Environmental Impact Statement (FEIS) to the department by February 27, 2008. Because you have not done so staff is going to recommend to the BLNR grant no further extension and that the CDUA be denied on the March 28, 2008 Board of Land and Natural Resources (BLNR) meeting for failure of on the part of the applicant to complete the EIS process in a reasonable timely manner.

Should you have any questions, please contact Dawn Heeger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson/ DOFAW – Hilo Branch and M. Constantinides
County of Hawaii Planning Department
Mark Hee, 2264 Kapahu Street, Honolulu, Hawaii 96813/ David DeLuz, 811 Kanoelehue Avenue, Hilo,
Hawaii 96720

EXHIBIT 2